

With the birth of our nation came a government that was designed to be open and transparent to the people it served and one that would be held accountable for its actions. America's founding fathers established and implemented a system of checks and balances to ensure that one branch of government could not unilaterally impose its will on the others, aggressively overstep its authority, or greedily infringe upon the rights of the citizenry.

However, an often overlooked element of that system is the role played by those empowered by the Bill of Rights: the press, and the people it serves. The First Amendment grants active citizens and vocal journalists the power to expose corruption and misbehavior committed by those elected and appointed to office. They serve as protectors of our democracy, and work to make up for our system's failings where they exist.

The Watergate scandal epitomized the value of a free press, and with it the need to protect the relationship between journalists and their confidential sources. The public has long valued this relationship as critical to the functioning of an open and free media. Unfortunately, the court record has been more mixed. In an important decision (*Branzburg v. Hayes*), the Supreme Court ruled that the journalist-source relationship is not protected under the Constitution. That ruling has allowed journalists to be forced to testify before grand juries about their sources. In response, individual states across the country have enacted their own journalist "shield laws" to guarantee that a member of the press can continue to maintain their anonymous sources without fear of prosecution.

Now, recent federal court cases are again challenging the critically important relationship between journalists and their sources, arguing that state interests supersede those of a free press. Critics of journalist shield protections argue that the privilege of anonymity is less powerful than court subpoenas - in essence, that the work of investigative reporters is less significant than the work of government and court investigators. But are we really willing to sacrifice a free and independent press by allowing law enforcement and government attorneys to turn journalists into witnesses on a whim? Doing so will only diminish the ability of the press to do its job.

For a moment, consider a reality in which journalists could routinely be forced to reveal the names of their informants. Sources would be increasingly reluctant to share important information. Think of the scandals journalists have revealed just in the last few years: the Central Intelligence Agency's clandestine prisons across Eastern Europe; Jack Abramoff trading dinners for political favors from lawmakers; our veterans returning home from Iraq and

Afghanistan to dilapidated facilities at Walter Reed Medical Center. Confidential sources made these reports possible. Would we rather be unaware of them because shield laws don't exist, and our reporters are too afraid of prosecution to do their jobs?

The past six years have produced one disturbing reminder after another that the legitimacy of our government and the integrity of our democracy are dependent on the ability of journalists to protect their sources. From uncovering the horrifying incidents of detainee abuse at Abu Ghraib to revealing the Administration's covert domestic spying program, the press held the executive branch accountable when past Congresses refused to do so. In turn, the people (the real source of power in our system) had the chance to hold the Administration responsible for its misuse of power, and the last Congress to account for refusing to provide proper oversight. In essence, the press restored power to the people when their representatives let them down.

Our free press must be viewed as the fourth branch of government. While each branch checks and balances the others, the press ensures that all of them remain under the close scrutiny of the citizens of this country.

Unless Congress passes a comprehensive shield law that will guarantee the rights of journalists to speak with anonymous sources, the freedom of the press will be undermined along with the public good it has the power to defend. Any such bill must, of course, take into account the legitimate needs of our government. But should we in any way compromise the freedom of the press in the process, we will deny our citizens their right to be informed about their government, and retreat from the true nature of the political system that made our country unique.